our society. And as we become a diverse society, we're going to have to deal with it more and more.

I believe, sure as I'm sitting here, that most Americans really care. They're tolerant people. They're good, tolerant people. It's the very few that create most of the crisis. And we just happen to have to find them and deal with them.

On February 9 of this year, at remarks marking Black History Month, President Bush said that he would ''look at all opportunities'' to end racial profiling. While visiting a predominantly African-American elementary school here in Washington, D.C., President Bush said:

I'll look at all opportunities, starting with the gathering of information where the federal government can help jurisdictions gather information, compile information, to get the facts on the table to make sure people are treated fairly in the justice system.

And in his State of the Union Address two weeks ago, the President addressed the issue again. There, he said:

As government promotes compassion, it also must promote justice. Too many of our citizens have cause to doubt our nation's justice when the law points a finger of suspicion at groups instead of individuals. All our citizens are created equal and must be treated equally. Earlier today, I asked John Ashcroft, the Attorney General, to develop specific recommendations to end racial profiling. It's wrong, and we will end it in America.

I certainly welcome our new President's comments.

Attorney General Ashcroft has also stated that racial profiling will be a priority in his Department of Justice. At his confirmation hearing on January 17, Senator Ashcroft said:

I think racial profiling is wrong. I think it's unconstitutional. I think it violates the 14th Amendment. I think most of the men and women in our law enforcement are good people trying to enforce the law. I think we all share that view. But we owe it to provide them with guidance to ensure that racial profiling does not happen. I look forward to working together with you to try to find a way to do that.

Senator Ashcroft summed up:

I will make racial profiling a priority of mine.

In a follow-up written question to that hearing, I asked Senator Ashcroft whether his opposition to racial profiling included racial profiling of airline passengers or people walking down the street. Senator Ashcroft replied:

I have stated my strong opposition to racial profiling across the spectrum. There should be no loopholes or safe harbors for racial profiling. Official discrimination of this sort is wrong and unconstitutional no matter what the context.

And two weeks ago, at an extensive statement and press conference on the subject, Attorney General Ashcroft said:

I have long believed that to treat people solely on the basis of their race was a violation of the 14th Amendment to the U.S. Constitution.

He declared: ''It's wrong,'' and said:

I believe Congress can, and will, respond constructively.

Attorney General Ashcroft also sent a letter to the Chairmen and Ranking Democratic Members of the Judiciary Committees on this subject, and I ask unanimous consent that a copy of that letter be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. FEINGOLD. Mr. President, Wisconsin's former Governor Tommy Thompson, now Secretary of Health and Human Services, created a Task Force on Racial Profiling when he was Governor. That Task Force just completed its report, and concluded, among other things, that more data is needed, and recommended data collection. Congressman CONYERS and our legislation calls for data collection, among other things.

I am pleased that the President and Members of his Cabinet recognize the gravity of this issue for all Americans. Particularly in the wake of the racially divisive election and nomination of Attorney General Ashcroft, the Administration needs to make special efforts to heal the wounds that separate us as a Nation. And with the support of the Administration, we should be able to enact racial profiling legislation this year.

But we should do more. Once again, I call on President Bush to resubmit the nomination of Judge Ronnie White to serve as a U.S. District Court judge.

I also call on the President publicly to support the nomination of Judge Roger Gregory to the Fourth Circuit Court of Appeals.

These distinguished jurists deserve to sit on the Federal bench. And the effective administration of justice in America demands that the Federal courts, even the Fourth Circuit Court of Appeals, reflect the diversity of this Nation.

Let us do more to advance the cause of justice for all, and then we can truly live out the ancient wisdom, inscribed on the Liberty Bell, and ''[p]roclaim liberty throughout all the land unto all the inhabitants thereof.''

I yield the remainder of my time.

EXHIBIT 1

OFFICE OF THE ATTORNEY GENERAL,
Washington, DC, February 28, 2001.

Hon. PATRICK LEAHY,
Ranking Minority Member, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR SENATOR LEAHY: As you know, I received a directive from the President late yesterday asking me to work with Congress to develop effective methods to determine the extent to which law enforcement officers in the United States engage in the practice of racial profiling. As you further know, racial profiling is the use of race as a factor in conducting stops, searches, and other investigative procedures. While we all recognize that the overwhelming majority of law enforcement officers perform their demanding jobs in an outstanding manner, any practice of racial profiling, even by a small minority, is unacceptable.

You may recall that during the hearing I held on the subject last year as a Senator, I stated that racial profiling, even if practiced only by a few, is extremely problematic for two reasons. First, it undermines the public trust in the impartiality of law enforcement officers which is essential to effective law enforcement. Second, and more importantly, I personally believe such a practice violates the Equal Protection Clause of the Fourteenth Amendment to the Constitution. I share the President's commitment to ending any unequal treatment of Americans, particularly by law enforcement.

To this end, I urge you in your capacity as Ranking Member of the Judiciary Committee to consider quickly legislation authorizing the Department of Justice to conduct a study of traffic stops data that currently is being collected voluntarily by law enforcement agencies across the country. Such a study will assist us in determining the extent of the problem of racial profiling.

The Traffic Stops Statistics Study Act introduced last Congress by Congressman Conyers in the House, and proposed by Senator Feingold in the Senate, is an excellent starting place for such an enterprise. I would hope that any legislation you consider makes clear that such information is provided voluntarily, in order to quell any potential federalism concerns. Such legislation ought to permit consideration of broad categories of data, such as the reasons and circumstances of any stop, the identifying characteristics of the driver and passengers as perceived and discernable by the officer making the stop, the characteristics of the officer making the stop, the racial or ethnic composition of the area in which the stop was made, and any other data that will ensure as full a picture as possible of these contacts, such as arrest and conviction outcomes linked to traffic stops. In order to encourage participation, the legislation hopefully will make clear that the legislation will not change the burdens or standards of proof in any lawsuits. The legislation, therefore, would lend to a better study, by emphasizing the importance and seriousness of the issue while, at the same time, encouraging cooperation.

I am eager to begin work on this important task, and hope that Congress will consider such legislation quickly. If Congress is unable to authorize such a study in 6 months, I will instruct the Department to begin promptly its own study of available data. I look forward to working with you on this important issue to ensure that all Americans are guaranteed equal justice under law.

Sincerely,

JOHN ASHCROFT,
Attorney General.

Mr. FEINGOLD. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

BANKRUPTCY

Mr. BINGAMAN. Mr. President, I ask unanimous consent to be allowed to speak as if in morning business for a few minutes on two amendments that are pending to the bankruptcy bill—amendments offered by Senator WYDEN and Senator SMITH related to discharge of debts and prohibition of discharge of debts related to the California energy crisis.

I oppose the Smith amendment to the underlying Wyden amendment, and I also oppose the Wyden amendment.

In my view, both amendments are unfair in that they give an unfair advantage to government agencies at the expense of private companies in the event that California utilities wind up in bankruptcy. They ensure that a large Federal utility like Bonneville, itself the beneficiary of billions of dollars of Federal investment, and other utilities will be paid ahead of the banks, small renewable energy generators, natural gas companies, and other creditors.

Both amendments are not helpful in our current circumstance. The State of California and its utilities are trying desperately to keep the utilities out of bankruptcy. Without these amendments, they stand a good chance of succeeding. If the amendments are adopted, the utilities will almost certainly be forced to declare bankruptcy.

I also oppose the amendments because, in my view, they are unwise. The consequences of the three largest utilities in California going bankrupt are unknown, as is the rest of the State's economy and the rest of our Nation's economy. But it is clear that it will not just affect the ratepayers served by the three utilities, or even just the people of California. It will affect all Americans. As Chairman of the Federal Reserve, Alan Greenspan, testified several weeks ago, ''it's scarcely credible that you can have a major economic problem in California which does not feed to the rest of the 49 States.''

In my view, the amendments are also unnecessary. If utilities are able to avoid bankruptcy, then the power suppliers that these amendments seek to protect will be paid. Even if they go bankrupt, those power suppliers stand a reasonably good chance of being paid—if not by the utilities themselves, then by the government, for the reasons that Senator MURKOWSKI explained last night on the Senate floor.

In my view, the amendments are also unworkable. By trying to jump certain creditors to the head of the line to receive payment, they will most likely force the remaining creditors to move to put the utilities into bankruptcy immediately so that the utilities' assets can be divided immediately, 6 months before the amendments in fact take effect.

Even if the amendments are enacted, the generators would not likely receive any benefit from the enactment of the amendments.

Finally, these amendments, in my view, are uncharitable in that the administration has declared the California electric crisis to be California's problem, and has left it to California to solve the problem. The Federal Energy Regulatory Commission, which is the independent agency charged with seeing to it that electric rates are just and reasonable, has done little to help the situation. Governor Davis, and the State legislature in California, the utilities, and their creditors have been working valiantly in recent weeks, and even months, to fix this problem. All they are now asking of this Senate is that we not intervene and send the utilities into bankruptcy by adopting amendments of this type.

In my view, Senators need to weigh the potential enormous harm to millions of Americans that would result in the adoption of these amendments against the illusory benefit that the amendments hold out for the few generators that would be benefited.

In sum, to paraphrase Shakespeare, which is not done very often on the Senate floor, adoption of the amendments will rob California of that which cannot enrich the northwest generators and yet will make California poor, indeed.

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. FEINSTEIN. Mr. President, I believe the unanimous consent order provided 5 minutes for Senator HAGEL to speak against the Wyden amendment. Senator HAGEL will not be able to be present, and I ask unanimous consent to use that time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. FEINSTEIN. Thank you very much, Mr. President.

I thank the ranking member of the Energy Committee, the Senator from New Mexico, Mr. BINGAMAN, for his remarks in opposition to the Wyden amendment. I also wish to thank Senator MURKOWSKI, the chairman, who came to the floor last night and spoke against the amendment.

Last evening, I submitted for the RECORD several letters in opposition to the amendment from the Electric Power Supply Association, the Edison Electric Institute, The Williams Companies, Calpine, Pacific Gas and Electric, Southern California Edison, International Brotherhood of Electrical Workers, The Utility Reform Network, a consumer group, and the American Gas Association, all in strong opposition to the Wyden amendment, and also with one general theme. That general theme is that if the Congress of the United States were to determine the order in which debts would be discharged, it would trigger a bankruptcy because those who are not favored in that order would seek to protect their right by moving both Pacific Gas and Electric and Southern California Edison into bankruptcy. Virtually every single letter reiterated that concern.

I would like to reread from one of the letters so the Senate might understand the concern, and that is from the Electric Power Supply Association. That letter states:

> We are writing to express our deep concern and opposition to [the amendment]. Our fear is that this amendment could precipitate a financial crisis and exacerbate the already precarious situation in the West.

The PRESIDING OFFICER. Will the Senator suspend.

Mrs. FEINSTEIN. I will.

BANKRUPTCY REFORM ACT OF 2001—Resumed

The PRESIDING OFFICER. We were to lay down the bill at 10:30. The hour of 10:30 having arrived, the clerk will report the pending bill.

The bill clerk read as follows:

A bill (S. 420) to amend title 11, United States Code, and for other purposes.

Pending:

Leahy amendment No. 20, to resolve an ambiguity relating to the definition of current monthly income.

Wellstone amendment No. 35, to clarify the duties of a debtor who is the plan administrator of an employee benefit plan.

Wellstone modified amendment No. 36, to disallow certain claims and prohibit coercive debt collection practices.

Wellstone amendment No. 37, to provide that imports of semifinished steel slabs shall be considered to be articles like or directly competitive with taconite pellets for purposes of determining the eligibility of certain workers for trade adjustment assistance under the Trade Act of 1974.

Kennedy amendment No. 38, to allow for reasonable medical expenses.

Collins amendment No. 16, to provide family fishermen with the same kind of protections and terms as granted to family farmers under chapter 12 of the bankruptcy laws.

Leahy amendment No. 41, to protect the identity of minor children in bankruptcy proceedings.

Wyden amendment No. 78, to provide for the nondischargeability of debts arising from the exchange of electric energy.

Carnahan amendment No. 40, to ensure additional expenses associated with home energy costs are included in the debtor's monthly expenses.

Smith of Oregon amendment No. 95 (to amendment No. 78), of a perfecting nature.

Reid (for Durbin) amendment No. 93, in the nature of a substitute.

Reid (for Breaux) amendment No. 94, to provide for the reissuance of a rule relating to ergonomics.

AMENDMENT NO. 78

The PRESIDING OFFICER. The Senator now has 5 minutes.

Mrs. FEINSTEIN. I thank the Chair, and I would like to continue:

> This amendment seeks to give certain entities a favorable status in the event that California utilities fall into bankruptcy.

That is what the Wyden amendment does.

The letter goes on:

> Many companies have provided power to California's consumers and [this association] believes emphatically that all these entities deserve to be fully and fairly compensated.

As do I, Mr. President.

> However, it is inappropriate for the Senate to try and create winners and losers in this desperate situation. Rather than orderly resolution, this legislation could lead to a premature declaration of bankruptcy and the